



WORKER RIGHTS CONSORTIUM

**WORKER RIGHTS CONSORTIUM ASSESSMENT
JOEANNE DOMINICANA (DOMINICAN REPUBLIC)**

FINDINGS AND RECOMMENDATIONS

December 22, 2015

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I. Introduction

The following is a report of the findings and recommendations of the Worker Rights Consortium's investigation of alleged violations of the Dominican Labor Code and university codes of conduct at JoeAnne Dominicana, a factory located in Santiago, Dominican Republic. JoeAnne Dominicana is disclosed as a supplier of university licensed apparel to Franklin Sports and Russell Brands.

From March to July 2015, the WRC conducted an investigation in response to a complaint submitted in March 2015 by three JoeAnne Dominicana employees who alleged that they had been fired from their jobs in retaliation for participating in establishing a union at the factory, an exercise of the right of freedom of association that is generally protected under Dominican labor law, international labor standards, and university codes of conduct.¹

The March 2015 complaint followed a previous investigation by the WRC at JoeAnne Dominicana in 2013 that determined that the company had fired seven workers in retaliation for their efforts to form a union at the factory. In response to the WRC's recommendations, the factory reinstated six of the seven fired workers who wished to return to the job.

The union's March 2015 complaint concerned the termination of three workers who were members of the founding committee of the union, Pro-Sindicato de Trabajadores de la Empresa JoeAnne Dominicana ("Prositrajoeanne"), which is affiliated to the Federacion Dominicana de Trabajadores de Zonas Francas ("Fedotrazonas"). As founding members of the union, the three workers were legally protected by "*fuero sindical*," a right established under the Dominican Labor Code that requires employers to obtain prior authorization from the country's labor courts before dismissing workers who are or have been involved in forming a union.²

JoeAnne Dominicana fired the three workers on the grounds that, allegedly, in February 2015, one of the three threatened a pregnant coworker with violence and the other two shut-off sewing machines and refused to work for an extended period of time during the workday. Under Dominican labor law, both alleged offenses are legal grounds for termination.³

JoeAnne Dominicana terminated the three workers on February 26, 2015, after petitioning and receiving authorization from the Dominican labor court to do so. The complaint filed with the WRC by the workers alleged that JoeAnne Dominicana made false accusations before the court

¹ Dominican Labor Code, Article 333.2 and *Special Agreement Regarding Workplace Codes of Conduct*, Collegiate Licensing Company, II(B)(9).

² Dominican Labor Code, Articles 390 and 391.

³ *Id.*, Article 88.

and that the factory management coerced other employees to provide false testimony against the three, which was used by the company as evidence in court.

The WRC contacted JoeAnne Dominicana on March 31, 2015 and requested additional information regarding the allegations lodged by the union on behalf of the three employees. JoeAnne Dominicana provided the WRC with substantial evidence related to the case, including testimony submitted by the company to the court from witnesses to the February incidents and other detailed information about misconduct by the three fired employees. JoeAnne Dominicana also provided the WRC with access to the factory to conduct an onsite investigation of the incident over the course of two days in June 2015.

The Fedotrazonas union facilitated offsite interviews with the fired workers and with witnesses to the incidents leading to their dismissals and provided related Ministry of Labor documents, including the documentation of the process by which workers formed and registered the Prositrajoeanne union.

The WRC's investigation of the terminations did not find, on balance, sufficient evidence to support the union's contention that the termination of these three workers violated Dominican law, international labor standards and/or university codes of conduct. Most significantly, the WRC's investigation did not find an adequate basis to conclude that the employees had been terminated in retaliation for their union activities, rather than because they had engaged in conduct that, under the Dominican Labor Code, provided legal justification for their dismissals.

In investigations concerning factories producing collegiate apparel where no finding of university code of conduct violations is reached, the WRC does not issue recommendations for corrective action. In this case, however, while the company was unwilling to rescind the termination of the three workers, JoeAnne Dominicana did ask the WRC to facilitate improved communication between its factory management and those union representatives who continued to be employed at the factory.

For its part, the union responded affirmatively to the factory's expression of interest in improving labor-management communication. Accordingly, the WRC has included in this report recommendations to help the parties successfully avoid or resolve future disputes.

II. Methodology

The findings detailed in this report are based on the following sources of evidence:

- Offsite interviews with the three terminated union activists and Fedotrazonas union officials;
- Telephone interviews with two current employees of JoeAnne Dominicana who were later interviewed onsite;
- Onsite interviews with 12 current employees of JoeAnne Dominicana;
- Interviews with JoeAnne Dominicana factory managers and representatives of the plant's owner, JoeAnne Company International;
- Interviews with inspectors from the Dominican Labor Ministry who investigated the dismissal of the three employees;
- Review of factory personnel files, company policies, and other relevant records; and
- Review of relevant Dominican labor law, university codes of conduct, and international labor standards.

After receiving the union's complaint, the WRC interviewed the affected workers and contacted JoeAnne International to obtain more information. The WRC also requested the opportunity to visit the factory in order to interview members of management and other workers that might have witnessed the incidents.

The WRC's standard practice for conducting interviews with workers is to meet with those workers who are willing to give testimony at a location outside of the factory — a place chosen by the worker — in order to avoid employer interference in the interview and in order to create an environment in which workers are confident that the information that they share will be maintained confidential. This method avoids the well-documented risk of employer "coaching" of worker interviewees that is often present when such conversations occur on the factory premises.⁴

However, in the case of the investigation at JoeAnne Dominicana, in addition to the offsite interviews that were conducted, the WRC chose to conduct onsite worker interviews because neither the affected workers nor the complainant union was able to refer the WRC to other workers who had witnessed the events described by the factory as justification for the dismissals.

⁴ See, e.g. Kishanthi Parella, "Outsourcing Corporate Accountability," 89 *Wash. Law Rev.* 747, 776 (2014), <https://digital.law.washington.edu/dspace-law/bitstream/handle/1773.1/1394/89WLR0747.pdf?sequence=1&isAllowed=y>.

Despite the fact that many of the interviews were conducted at the workplace, the WRC took special care to assure workers that the information that they shared would be confidential. The onsite interviews were conducted in a private conference room and factory management assured the WRC representative conducting the interviews that there were no recording devices in the room.

While the WRC generally gives more weight to information provided by workers who are interviewed outside of their workplace, the WRC investigator found the workers interviewed onsite to be credible witnesses and took their testimony into account in reaching conclusions about the alleged violations outlined in the complaint.

In particular, workers' testimony from both on and offsite interviews provided important factual details that were not included in either the Ministry of Labor's inspection report or the court documents, which lacked detail and included no chronology for the alleged violations.

III. Findings

The WRC's investigation found that, on balance, the available evidence did not support the conclusion that JoeAnne Dominicana violated Dominican labor law, international labor standards, or university codes of conduct in terminating the three workers in question. This section presents background information summarizing the WRC's previous reporting on labor rights violations at JoeAnne Dominicana, the allegations that gave rise to the present investigation, and the results of the WRC's investigation of these allegations.

A. Prior Violations of Associational Rights at JoeAnne Dominicana (January-June 2013)

Employees at JoeAnne Dominicana began forming a union at the factory with the assistance of the labor federation, Fedotrazonas, in January 2013. In March 2013, Fedotrazonas submitted a complaint to the WRC alleging that seven JoeAnne Dominicana employees who were members of the union's founding committee at the factory had been fired in retaliation for their union activities, a violation of both university codes of conduct⁵ and Dominican law.⁶

The WRC conducted an investigation, which confirmed that these earlier terminations were retaliatory in nature and, therefore, violated applicable legal and code of conduct standards. The WRC published these [findings](#) in May 2013 along with recommendations for reinstatement of the terminated employees and other measures to remedy the violations of associational rights outlined in the report.

⁵ *Special Agreement Regarding Workplace Codes of Conduct*, Collegiate Licensing Company, II(B)(9).

⁶ Dominican Labor Code, Article 333, 390, 391.

In June 2013, JoeAnne Dominicana [reinstated six of the seven workers](#) whom the WRC had found had been terminated in relation for their union activity. However, even after this, perhaps due to an ongoing chilling effect from the company's original actions, workers at the factory did not resume efforts to organize a union for several months.

Given JoeAnne Dominicana's prior history of violating workers' freedom of association, specifically by dismissing workers who were members of the union's founding committee, the WRC gave careful scrutiny to the allegations of the three workers terminated in March 2015 that their discharge was a result of their decision to organize a union.

B. Alleged Retaliatory Termination of Employee Union Activists (January-March 2015)

In December 2013, workers at the factory resumed efforts to organize a union. Nearly one year later, on September 1, 2014, workers again notified the company of their intent to form the union, Prositrajoanne. This notification, which is required by Dominican law,⁷ specifically identified the eight founding members of the union, among whom were the three workers who were later dismissed.⁸ Under Dominican law, this notification entitles these founding members to the right of "*fuero sindical*," thereby protecting them from dismissal without prior authorization from the labor authorities.⁹

The Ministry of Labor issued the union its official registration on April 16, 2015. Before this, however, on February 18, 2015, JoeAnne Dominicana requested authorization from the Dominican labor courts to dismiss for alleged misconduct, three of the employees who had been listed as members of the union's founding committee. The company alleged that one of the three workers had mistreated one of his co-workers and that the other two had disrupted the factory's production by unplugging their sewing machines and leaving their work stations without authorization.

After reviewing the facts of the case and hearing testimony from both the employer and the union, a Santiago labor court decided, on February 26, 2015, to grant the company authorization to terminate all three workers.

The WRC reviewed the documents JoeAnne Dominica presented to the labor court to support the company's request for authorization to dismiss the three workers as well as evidence that the

⁷ Dominican Labor Code, Article 393(4).

⁸ As other workers decided to join the union's founding committee, the company was, on subsequent dates, notified by the union of additional founding members.

⁹ Articles 390 and 391 of the Dominican Labor Code protect up to 20 members of the founding committee of a union in formation from dismissal unless the employer obtains prior authorization to do so from the labor courts.

employees were able to provide in support of their contention that their terminations were retaliatory. The WRC also conducted its own interviews with employees — including both the discharged workers and employees who had testified at the Labor Court in support of the company's petition. The WRC's conclusions with respect to the three workers' termination by the company, and with regard to the labor court's decision authorizing this action, are detailed below.

1. Termination for Alleged Mistreatment of Another Employee

The company alleged that, on January 27, during working hours, one of the three employees made what management considered to be a violent threat to a coworker. The company stated that the worker had told a pregnant co-worker that he was going to “pull that baby out through your mouth,” a comment that, according to the company, caused the pregnant worker to become emotionally distraught and cry.

The Dominican Labor Code states that cause for dismissal includes acts or intended acts of violence toward a co-worker or insult, injury, or mistreatment of a co-worker, when any of these acts disrupt order in the workplace.¹⁰ This same language is included in JoeAnne Dominicana's Company Policy.

In the documents that it submitted to the court following the incident, the company stated that, on the same day of the incident, it conducted an internal investigation, interviewing the worker charged with mistreatment, the pregnant worker, and several other witnesses. On the day the incident occurred, factory managers informed the accused worker that the accusations against him were quite serious, but the company did not initiate any disciplinary action towards the worker.

When later interviewed by the WRC, the worker accused of mistreating his co-worker stated that the alleged victim fabricated the claim of abusive conduct. The accused worker told the WRC that, on the day of the alleged incident, he told the employee in question to work more quickly because he was waiting for garments on which she was working in order to complete his own assignment.

According to the employee who was discharged, the two workers did not actually have a confrontation, but rather he simply asked the other employee to pass him the garments on which she had finished working more quickly. He stated that he made no threat to her of any kind and that the only threat that was made was by the pregnant worker, who allegedly said that she would

¹⁰ Article 88(4).

strike him in the face. The dismissed worker claimed that the pregnant worker then left the production area to go to the bathroom and then to the factory's human resources office.

The dismissed worker further recounted that, shortly after the pregnant worker left to go to the human resources office, he was also called to the office where he met with a human resources manager. The manager allegedly told him that the threat he made was very serious and that he could be taken to court. The dismissed worker reported to the WRC that he was not issued any sort of verbal or written warning on the day of the incident, a fact that was corroborated by the company at the time of the WRC's visit to the factory. The worker added that he had learned that the company had requested authorization from the labor court to terminate his employment only after being informed by a representative of Fedotrazonas.

The WRC asked the dismissed worker if he could produce as witnesses other employees who could corroborate his version of events, but he was not able to do so. The WRC informed the worker that interviews with other employees could be arranged by the WRC to be conducted confidentially and offsite from the factory. However, the dismissed worker was not able to provide the WRC with the names of any supporting witnesses.

Among those interviewed by the WRC at the factory was the worker who was allegedly threatened by the discharged employee. She told the WRC that, on the day of the incident, the worker in question had been pressuring her to work faster in order to pass along completed work to him and that, after the two workers argued about the pace of production, the union leader who was later fired said, "I'm going to pull that baby out through your mouth."

The alleged victim reported to the WRC that she was very upset by the exchange and that her supervisor inquired about what had happened and then escorted her to the human resources office in order to report to management the details of the incident. Another worker who witnessed the incident also provided mutually corroborative testimony to the WRC with regard to the incident.

Although, as noted, the WRC conducted these interviews onsite at the factory, which is not the organization's standard practice, the testimony of these employees was found to be substantially credible, and, in particular, more credible than that of the employee who had been discharged. In particular, the WRC did not see any evidence that the other employees who were interviewed had been coerced by factory management to provide false statements against the fired employee.

In its petition to the court for authorization to terminate the employee union member, the company charged him with threatening another worker, in violation of Article 88(4) of the

Dominican Labor Code and the JoeAnne Dominicana Company Policy. Article 88(4) states that a worker cannot act violently or mistreat a co-worker.

While disputes between two employees may occur in any workplace, the evidence indicated, on balance, that the worker who was eventually dismissed did indeed use violent language in confronting his co-worker and that this caused the other worker to become visibly upset. The WRC found that this could have given the employer a legitimate nonretaliatory basis for the termination.

Because the employee union committee member was discharged during the period between when the Prositrajoeanne union was established and when the Ministry of Labor issued the new organization its registration, the WRC gave careful scrutiny to whether the company disciplined the worker in a discriminatory fashion on account of his union activity. However, neither the terminated employee nor the union provided the WRC with any evidence to indicate that the employer would have acted differently if the worker had not been a member of the union committee. Therefore, the WRC finds that there is insufficient basis to conclude that JoeAnne Dominicana acted in a manner that violated freedom of association when it sought authorization from the Dominican labor court to dismiss this employee.

2. Termination for Leaving Work Station and Disrupting Production

In the case of the other two employee union members whom the factory dismissed, the basis for the factory's request for authorization to terminate these employees was the allegation that, on February 4, 2015, the two workers unplugged their sewing machines and refused to work for a period of 20 to 30 minutes, which, according to company managers, interrupted production in the section of the factory where the two had been working. On the basis of this conduct, which the company asserted constituted a significant violation of its policies, JoeAnne Dominica sought and obtained permission from the Dominican Labor Court to discharge the two employees.

The WRC interviewed the two dismissed workers, who stated that, on the day when the incident allegedly occurred, they had left their work stations to visit the factory's human resources department to discuss a miscalculation of their wages. One of the two employees acknowledged that, before leaving his work station, he turned off his sewing machine, which, he stated, is a standard electricity-saving practice in the factory.

Both employees denied, however, that they disconnected the sewing machines at which they worked from the machines' power sources, an act which, they noted, would have required them to stand on a table to unplug the machines' cords from an electrical outlet that is on a power line suspended above their work stations. They also denied that, after leaving their work stations,

they went anywhere else in the plant other than the administrative office where the factory's payroll is processed.

Before requesting authorization from the courts to dismiss the three workers in question, JoeAnne Dominicana asked the Dominican Ministry of Labor to investigate this incident.¹¹ In response, the Ministry of Labor conducted a two-day investigation, beginning the very next day, on February 5, 2015.¹²

The Ministry of Labor interviewed the two discharged workers, as well as other employees who allegedly witnessed the events, and members of factory management. The Ministry's report stated that one of the two discharged workers testified that he commonly disconnected his sewing machine and that, on the day in question, he switched it off and went to the factory administrative offices in order to discuss a payroll error with factory management and, a short time later, returned to his work station. The other discharged worker told the Ministry inspector that he did not disconnect his sewing machine,¹³ but that he did leave his work station in order to address a payroll error and that both he and the other discharged employee returned quickly to their respective work stations.

The Ministry of Labor's report also quotes several other employees, including one supervisor, who worked in close proximity to the two employees. One of these employees offered a vague description of the incident, stating that the two discharged employees disconnected their sewing machines out of anger over the payroll error. Another witness provided a slightly more detailed description, adding that one of the two workers climbed on top of his work station to disconnect both workers' machines.

During its visit to the factory in June 2015, the WRC conducted its own interviews with four other employees who worked in the same area and who witnessed the February 4 incident. Overall, the testimony collected by the WRC supported the allegations made by JoeAnne Dominicana against the two employees who were alleged to have unplugged their machines and stopped production in their work areas.

Of the four workers who were interviewed, a clear majority gave testimony that, although varying in some details, was generally consistent with the allegations made by the company

¹¹ JoeAnne Dominicana did not request that the Ministry of Labor investigate the incident involving the alleged threatening statement to the pregnant employee. However, the pregnant employee was interviewed by the Ministry of Labor's inspector as a possible witness to the incident involving the two workers who were accused of causing an unprotected work stoppage by disconnecting their machines.

¹² It is the WRC's experience in its work in the Dominican Republic that the Ministry of Labor is quick to respond when a request for a factory inspection is filed by either a management or labor representative. Therefore, we do not find the Ministry's rapid response, in this case, to be evidence of bias or favor towards the factory management.

¹³ This testimony contradicts the testimony provided by the worker to the WRC.

before the labor court and with the information gathered by the Dominican Ministry of Labor during its February 6 inspection. Although, as noted, the WRC conducted these interviews onsite at the factory, which is not the organization's standard practice, the testimony of these employees was found to be substantially credible. In particular, the WRC did not see any evidence that these workers were coerced by factory management to provide false statements against the two fired employees.

According to one witness, one of the two dismissed workers disconnected his own sewing machine and then attempted to disconnect the second worker's sewing machine as well, at which point the second worker asked the first not to do so. This witness confirmed that both workers left their work areas after the sewing machines were disconnected.

Another witness stated that one of the dismissed workers loudly expressed frustration about the miscalculation of his pay and then climbed on top of his work station, disconnected his machine, and then sat in his chair while resting his feet on top of his work station. This witness did not recall seeing the worker walk towards the payroll office or to any other area of the factory. This witness did not describe the other dismissed worker as involved in the incident.

A third worker recounted a conversation with one of the two dismissed employees on the day of the incident. This witness stated that this worker came to the witness' work station in a noticeably upset state and told the witness that he had reviewed the payroll list that the company had just posted, noticed that his pay was less than it should have been, and, in response, had disconnected his sewing machine — adding that he probably should not have done this. This witness was interviewed by the WRC both offsite and at the factory and gave consistent testimony about the incident.

Only one employee interviewed by the WRC provided testimony that fully supported the fired workers' claims. This employee, whose work station is located near to that of the two dismissed workers, stated that neither one of them disconnected their sewing machines and that the two employees only briefly left their work stations in order to address a payroll issue with factory management. Based on the demeanor of this witness and the overall quality of the information that she provided, the WRC did not find the testimony of this worker to be sufficiently credible to outweigh that of the other workers who were interviewed.

The WRC also interviewed the two dismissed workers' supervisor, who acknowledged that she had not been present when the two allegedly disconnected their sewing machines, as she was in another area of the factory at the time. The supervisor told the WRC that other workers informed her that the two employees had left their work stations in order to visit the factory's payroll department.

The supervisor testified that, having observed that the two employees were absent from their work stations, she then went to the factory's administrative offices where she found the two employees discussing the alleged wage error with a representative of the plant's payroll department. The supervisor told the WRC that she had assured the two workers that she would ensure that the payroll department correct the error and instructed them to return to their work areas. The supervisor added that the two employees did not return immediately to their work area and that she subsequently observed them walking by other areas of the factory, including next to the plant's painting department.

The Dominican Labor Code states that the employer may dismiss a worker who abandons his work without obtaining prior permission from the employer or the employer's representative to do so.¹⁴ JoeAnne Dominicana's Company Policy also incorporates this ground for dismissal. Based on consideration of all the available evidence, the WRC finds that the conduct of the two dismissed employees provided a reasonable basis for JoeAnne Dominica to seek authorization to discharge these workers under this standard.

Both Dominican law and the company's policies also state that the employer may dismiss an employee (including one who is a union committee member) if the worker's inactivity or stopping work creates a disturbance for the company.¹⁵ The supervisor of the two discharged employees reported to the WRC that their departure from their stations interrupted production in the entire work area because employees must pass finished sections of garments from one station to the next and cannot do so if there is an interruption in the flow of work. On the whole, the testimony of the workers interviewed by the WRC supported this contention.

This interruption of production provided a reasonable justification for the company to petition the labor court to authorize the two employees' dismissals on account of their having disturbed the company's operations. Nevertheless, because of the timing of their discharge relative to the establishment of the Prositrajoanne union, the WRC gave careful scrutiny to whether the company disciplined these workers in a discriminatory fashion on account of their union activities. Neither the two terminated employees nor their union, however, provided the WRC with any evidence to indicate that the company would not have taken this action even if the workers had not been members of the union committee.

Under Dominican law, as well as international labor standards, workers have the right to organize strikes and other work stoppages.¹⁶ However, the Labor Code establishes certain steps

¹⁴ Dominican Labor Code, Article 88(13).

¹⁵ Ibid, Article 88(12).

¹⁶ Ibid, Article 401.

which workers must take before initiating such an action. Dominican law states that workers who want to participate in a strike are required to first inform the Secretary of State, in writing, expressing that the objective of their action is to reach a resolution to an economic conflict, that the parties have exhausted efforts to reach a solution to the conflict through mediation and arbitration, and that the strike has been authorized by a vote of more than 51% of the company's employees. Workers who undertake strikes before completing this procedure are not legally protected against disciplinary action by their employers.¹⁷

The two workers who ceased work and left their stations on February 4 in order to protest the miscalculation of their wages had not fulfilled the statutory requirements for a legally protected strike. As a result, JoeAnne Dominicana did not violate their right to strike under the Labor Code when it sought authorization for their dismissal.

3. The Labor Court's Authorization of the Employees' Dismissal

On February 23, 2015, JoeAnne Dominicana requested authorization from a Dominican labor court to terminate the three employees,¹⁸ as was legally required given the three employees' protected status as founding members of the union. The labor court heard the company's petition, as well as the union's reply on behalf of the three workers on February 26 and, on the same day, issued its decision authorizing JoeAnne Dominicana to dismiss these employees. JoeAnne Dominicana terminated the three workers the same day.

The WRC consulted with local labor rights experts who affirmed that the fact that the labor court in Santiago delivered its decision on the same day that it heard the company's petition reflected standard practice in this forum and could not be considered evidence of bias or favor towards the company.¹⁹ Having reviewed the procedure by which the Court reached its decision, the WRC also concluded that there was no other evidence of lack of fairness towards the terminated employees. The WRC also determined through its investigation that the discharged workers were represented before the Court by a lawyer provided by the Fedotrazonas labor federation and were offered the opportunity to testify on their own behalf, although, on the advice of their counsel, they elected not to do so.

In its written decision, the labor court indicated that it based its conclusions on multiple factors, including testimony from two eyewitnesses to the alleged misconduct and the prior disciplinary

¹⁷ Ibid, Article 407.

¹⁸ The company's request to authorize dismissal for union leaders included a fourth worker, also a member of the union's founding committee, as a result of the worker's alleged absenteeism. However, the union did not file a complaint to the WRC concerning this dismissal, and, in fact, acknowledged that this employee was frequently absent from work and that the company was justified in dismissing the worker.

¹⁹ Interview with Lourdes Pantaleon, Fundacion Laboral Dominicana, September 14, 2015.

records of one of the three employees. In authorizing the workers' dismissals, the court stated that it had found the testimony of the company witnesses, when compared to the evidence and testimony offered by the defense, to be more credible and less contradictory. As discussed above, the WRC did not find evidence of error in the court's assessment.

Because, in the case of one of the three dismissed workers, the court also based its decision on the worker's prior disciplinary records, during the WRC's visit to the factory, this employee's personnel file was also reviewed. The WRC confirmed that the file contained documentation of three prior incidents of misconduct, which occurred in July 2013, June 2014, and October 2014.

The WRC found no evidence that the employees were terminated as an act of anti-union animus on the part of factory management and, throughout the investigation, found evidence suggesting that workers were terminated for having violated Article 88 of the Dominican Labor Code, which allows employers to immediately dismiss employees for "acts or intended acts of violence" or for "mistreatment of co-workers."²⁰ The Labor Code also allows for the immediate dismissal of an employee when he or she is "absent without justified notification when in charge of a machine or process whose inactivity or paralysis causes disruption for the company."²¹

In reaching its decision, the Court stated that: (a) the company "had not committed any action intended to repress the union's membership or founding committee," (b) the terminations of founding committee members would "not impede the union from executing its function and development," and, therefore, (c) the dismissals "did not undermine the workers' fundamental right to freedom of union association." As already discussed, the WRC did not find sufficient evidence to conclude that the labor court erred in either its assessment of the factual evidence or its application of the law when it authorized the termination of the three employees.

In addition to requiring compliance with national labor laws, university codes of conduct also protect workers' right to freedom of association under international labor standards, including in cases where local statutes, courts, or labor authorities fail to adequately uphold this right.²² For this reason, the WRC also considered the question of whether the labor court's decision to permit JoeAnne Dominica to terminate the employees who stopped work, unplugged their sewing machine, and left their work stations violated the latter's associational rights under relevant international labor standards, specifically, Conventions 87 on Freedom of Association and Protection of the Right to Organise (1948) and Convention 98 on the Right to Organise and Collective Bargaining (1949) of the International Labour Organization (ILO).

²⁰ Dominican Labor Code, Article 88.4.

²¹ *Id.*, Article 88.12.

²² *Special Agreement Regarding Workplace Codes of Conduct*, Collegiate Licensing Company, II(B)(9).

The ILO's Committee on Freedom of Association, which is its highest expert body interpreting this right, has identified many of the restrictions that Dominican law places on the right to strike, including the requirements that a work stoppage must be endorsed in advance by a majority of the company's employees, to be inconsistent with full respect for freedom of association.²³ However, the Committee also has stated in its jurisprudence that requiring unions to attempt nonbinding arbitration and mediation and to give prior notice before going on strike do not, by themselves, excessively restrict associational rights.²⁴ Therefore, the WRC concluded that the Dominican labor court did not violate the two employees' right to strike under international labor standards when it terminated them, since the fact that their work stoppage lacked legal protection was due, in part, to the employees' failure to provide prior notice to and attempt to resolve the dispute through mediation or arbitration with the company before first taking this action.

IV. Factory Response and Current Status

During the WRC's visit to the factory in June 2015, JoeAnne Dominicana expressed to the WRC its interest in meeting with the Fedotrazonas labor federation in order to address the allegations outlined in the union's complaint and to improve overall communication between worker representatives and management. The union, in response, stated that it was also interested in such a dialogue.

The union and the company shared with the WRC a series of emails exchanged between the two parties in June and July 2015. While JoeAnne Dominicana was not willing to rehire the three workers who filed the complaint with the WRC, it did agree, in an email it sent to union representatives on July 29, 2015, to make severance payments to the three affected workers, which, as a result of the labor court's decision finding that the terminations were justified on account of the employees' misconduct, were not legally required. The company informed the union that these payments to the former employees were being made not as the result of any legal requirement to do so, but rather as an expression of good will toward the union federation.

With regard to improved communication between the parties, JoeAnne Dominicana acknowledged in writing that the union was legally registered with the Ministry of Labor and affirmed that its company policy was to respect workers' freedom of association.²⁵ The union asked that the company agree to establish regular communication with the union by forming a bi-partite commission comprised of both members of management and representatives of

²³ ILO, *Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO* (5th ed. (rev.) 2006), ¶¶ 556-558.

²⁴ *Id.* ¶¶ 550-552.

²⁵ During the onsite visit in June 2015, the WRC observed a posted written statement from the company president affirming JoeAnne Dominicana's policy of respect for freedom of association and outlining the channel through which the workers should file a complaint in the event that this policy is violated.

Fedotrazonas in order to provide the union and the company with a venue to resolve workplace disputes and to foster a collaborative relationship.

While the company refused to commit to participate in a standing meeting, it did agree to meet with the union and the federation if there were continuing issues of concern. Fedotrazonas representatives confirmed that the company has, since that time, held two meetings with the union, on October 7 and December 4, 2015. During these meetings, the parties discussed the inclusion of union members in the company's Health and Safety Committee and Complaints and Conflict Committee and other union proposals for improvements to benefit workers at JoeAnne Dominicana.

V. Ongoing Recommendations

The WRC encourages JoeAnne Dominicana and the Prositrajoeanne union to continue to work together to improve labor-management relations and to establish a mechanism by which workplace grievances can be resolved in good faith by the parties. This process should include regular meetings in which representatives of management and the union meet in person in order to address workplace concerns and a continued effort on the part of the company to create an environment of respect for workers' freedom of association.

The WRC will continue to monitor compliance with Dominican labor law and university codes of conduct at JoeAnne Dominicana.